

Remarks

Receipt of the Office Action mailed August 6, 2009 is hereby acknowledged. Reconsideration and withdrawal of the outstanding rejections in view of the foregoing amendments and the following remarks is respectfully requested.

Applicants have provided a substitute specification to address the minor objections made by the Examiner at page 2, ¶ 2 of the Office Action.

Claim 13 has been amended to make it independent of claim 1 and to incorporate the elements of claim 4. Claim 14 has been amended to recite more conventional U.S. claim language. Claim 15 has been amended to incorporate the elements of claims 1, 4 and 16. Claims 1-12 and 16-17 have been cancelled without prejudice to Applicants' right to file a continuing application directed to their subject matter. New claims 18-25 depend from claim 13 and are supported by original claims 5-12. Similarly, new claims 26-33 depend from claim 15 and are supported by original claims 5-12.

No new matter has been added.

The Office Action states that "the attempt to incorporate subject matter into this application by reference to TO2002A000820 on page 7 is ineffective because the reference was not submitted for consideration." Applicants are uncertain what the Examiner had reference to, as the application does not seek

to incorporate TO2002A000820 by reference. Clarification is requested.

The only rejection of claims 13-14 and 16 was under 35 U.S.C. § 112, first paragraph, as allegedly not being enabled. However, the Examiner explicitly stated that the specification is enabled for:

"the polyether-ester copolymer having hydrophobic segments of repeating units derived from an alkylene glycol and at least one aromatic dicarboxylic acid or ester thereof and hydrophilic segments derived from at least one polyalkylene oxide glycol."

Office Action, p. 2, ¶ 4. The subject matter conceded by the Examiner to be enabled was embodied in original claim 4. This subject matter has been incorporated into claims 13-14 and 15. With these amendments, Applicants submit that claims 13-14 and 15 (as well as the new dependent claims 18-33) are admittedly enabled¹ and - not being subject to any other rejections - are now in condition for allowance.

Claims 1-12, 15 and 17 were rejected under 35 U.S.C. §§ 102(b) and 103(a) over Ando, et al., U.S. Patent No. 4,622,263 ("Ando"). Without conceding the propriety of these rejections, in order to advance prosecution, and without prejudice to their right to file a continuing application directed to this subject matter, Applicants have cancelled these

¹ Applicants do not concede that claims 1-3 and 8-17 were not enabled, and reserve their right to file a continuing application to seek protection of those claims.

claims (claim 15 has been amended by incorporating the limitations of claim 16, which was not subject to a rejection over Ando).

In view of the foregoing, Applicants respectfully submit that this application is now in condition for allowance. If the Examiner believes that an interview might expedite prosecution, the examiner is invited to contact the undersigned.

Respectfully submitted,

JACOBSON HOLMAN PLLC

By: Harvey Jacobson Jr./hjm

Harvey Jacobson, Jr.
Reg. No. 20,851

400 Seventh Street, N. W.
Washington, D.C. 20004
Telephone: (202) 638-6666
Date: December 7, 2009

EXHIBIT A